7. 27.08.2019 Heard Shri S. Patnaik, learned counsel for the petitioner and Shri A.K. Bose, learned Assistant Solicitor General of India appearing for the opposite parties.

This Writ Petition involves a challenge to the order dated 8.04.2004 vide Annexure-3.

Challenging the impugned action of the authority learned counsel for the petitioner taking this Court to the order dated 8.04.2004 vide Annexure-3 contended that the misc. case that has been allowed recording that the petitioner has not opposed, is incorrect. Learned counsel for the petitioner, on the other hand submitted that the petitioner has seriously opposed and there is wrong recording by the trial court.

Considering the submission of learned counsel for the petitioner and taking into account the settled position of law, in the event, a wrong recording is made by a court concerned, it is only for the very Court to rectify such mistake recalling such recordings and that too upon filing of such application within a reasonable period and also during his incumbency. The petitioner instead of approaching such court within reasonable time has raised such grounds before this Court and for the pendency of the writ petition for more than 10 years, this Court finds, there is no scope otherwise available to the petitioner to make such endeavour for the repeated change in the incumbency with the Civil Judge (Sr. Divn.), Bhubaneswar. Further from the reading of the order this Court finds, there is restoration of the ex parte disposal of the suit giving scope to the parties for disposal

of the suit on merit with contest of the parties. This Court therefore observes, there is also otherwise no prejudice to the petitioner.

Under the circumstance this Court is not inclined to entertain this Writ Petition, which is dismissed for having no merit. However, it is further directed that in case of death of the petitioner, it will be open to the parties to take steps for substitution in the suit. As the suit is pending since 2002 the trial court is directed to decide the suit finally within a period of six months from the date of appearance of the parties. Both the parties through their respective counsel undertake to cooperate the trial court in timely disposal of the suit vide T.S. No.143 of 2002.

**.....**
**(Biswanath Rath, J.)**

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